

The manufacturing machinery and equipment exemption can be documented by using Illinois Department of Revenue Form "ST-587 Equipment Exemption Certificate", which can be found on the Department's website. See 86 Ill. Adm. 130.330. (This is a GIL.)

July 20, 2005

Dear Xxxxx:

This letter is in response to your letter dated June 24, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I was referred to the Illinois Department of Revenue Legal Department for an official response to the following questions.

From a seller's perspective, if a seller were to sell merchandise that qualifies as exempt Manufacturing M&E to an Illinois customer,

1. Does the seller automatically not have to charge sales and use tax to the customer because the nature of the merchandise is exempt?
2. Does the seller also not have to accrue retailers occupation tax on this item for the same reason?
3. Is there an exemption certificate that must be obtained from the customer in order to relieve the seller from charging sales and use tax?

From a purchaser's perspective, if an Illinois customer were to purchase qualifying Mfg M&E for use in their own manufacturing process,

1. Does the purchaser not have to accrue and remit IL use tax because the nature of the merchandise is exempt?
2. How will this exempt purchase be reported on Form ST-1 Sales and Use Tax Return?

If you could clarify these issues for me I would greatly appreciate it. Thank you for your assistance.

DEPARTMENT'S RESPONSE:

We apologize for the delay in responding to your letter. You have inquired concerning the manufacturing machinery and equipment exemption. The rules concerning that exemption can be found on our website at 86 Ill. Adm. Code 130.330. The rules can be found by clicking on "Legal Research" on the Department's home page and then "Regulations". The requirements to certify eligibility for the exemption are described in subsection (g) of Section 130.330. A form "ST-587 - Equipment Exemption Certificate" or other certification containing the information required on that form must be submitted to the seller by the purchaser for each transaction on which the exemption is claimed. The Department's form may be found on the website by clicking on "Forms", then clicking on "Sales and Use", then clicking on "ST-587 - Equipment Exemption Certificate."

An item that is exempt from the Retailers' Occupation Tax as exempt manufacturing machinery and equipment as provided in 35 ILCS 120/2-5(14) and 86 Ill. Adm. Code 130.330, is also exempt from the Use Tax, as provided by the corollary exemption provisions in the Use Tax Act (35 ILCS 105/3-5(18)). See 86 Ill. Admin. Code 150.301(b). Therefore, neither Retailers' Occupation Tax nor Use Tax is owed on exempt manufacturing machinery and equipment. To report the exemption on the ST-1 Sales and Use Tax Return use the ST-1-T Deductions Worksheet to complete line 2 of the Return.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk